

9. Shanto Iyengar, *Is Anyone Responsible? How Television Frames Political Issues* (Chicago: University of Chicago Press, 1992).

10. See Howard Gardner, "How Education Changes: Considerations of History, Science, and Values," in *Learning in the Global Era: International Perspectives on Globalization and Education*, edited by Marcelo M. Suárez-Orozco (Berkeley: University of California Press, 2004), 233–58.

11. Robert Park, *The City: Suggestions for the Study of Human Nature in the Urban Environment* (Chicago: University of Chicago Press, 1925).

PART ONE

Immigration and the Law

In Part One of the book Nina Bernstein of the *New York Times*, Cristina M. Rodriguez of the New York University School of Law, Dianne Solis of the *Dallas Morning News*, and Peter H. Schuck of the Yale Law School debate the problem of writing about some of the most controversial and complicated topics in immigration today: raids on immigrant communities, deportations, family separations, and immigration-related ordinances at the local level. On top of a byzantine legal architecture—full of contradictions, good and bad laws—a human drama of broken family bonds, shadowed lives, and postponed dreams is unfolding.

A sample follows of the exchanges on immigration and the law that took place at the 2008 Nieman Foundation for Journalism conference.

Audience question: How has the law on the ground evolved over time? In North Carolina, where I'm from, there was a huge debate on letting illegal immigrants into the community colleges. They eventually decided to do that. What was implicit in that was the debate over whether they [illegal immigrants] should be allowed into schools, elementary schools, and secondary schools, which is pretty much settled. I'm wondering what things have changed over the last ten or twenty years that are parts of the law that maybe are not even on the books, but that are in the communities and have become settled.

Panelist Cristina M. Rodriguez: I think that's a difficult question to answer. The debate about the extent to which shifts in enforcement policies have actually changed is part of it. Whereas once ICE's [United States Immigration and Customs Enforcement's] focus was on the so-called criminal aliens, now they're more focused on the undocumented, and the mechanisms they have used have evolved over time.

On the subject of the admission to higher education, there are rumblings in a lot of states about whether or not it's (a) legal for public institutions to admit students who don't have status; and (b) whether institutions can give the reduced-rate tuition to people of undocumented status. It's another area of ferment in the states. What's settled—and the public consensus is shifting away from this, but the legal consensus is still pretty fixed—is that the equal protection clause prohibits states from keeping people out of the public schools through twelfth grade. The implication then is that you have a lot of kids who are educated in the public school system who have nowhere to go if the public colleges are not open to them. That puts a lot of pressure to open them up. In many states you've seen that happen. I suspect that's part of why North Carolina settled on the fact they [the community colleges] could be open.

As a legal matter, I don't think there's a limitation on whether or not they [illegal immigrants] have access. The question about whether the state can give reduced-rate in-state tuition is a closer legal question. The states have actually gotten around what seemed like a clear prohibition. When Congress says something explicitly, there are lots of ways that lawyers can get around it by the clever use of language; and I think they've succeeded. But that's an area where the consensus might be shifting a bit, but it might be shifting in the direction of openness as opposed to restriction because of the effects of *Plyler v. Doe* (see Rodriguez's contribution in this volume) on the system.

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Audience question: [In the United States] I'm hearing the term *illegal immigrant* a lot, and I'm hearing this term from journalists and lawyers who have a great impact on public opinion. For me it's a contradiction. Back in Spain we never, ever speak of an *illegal immigrant*. A *documented immigrant* is fine. This is something that I'm struggling with. I think the terminology that we use is important.

Panelist Patrick J. McDonnell: As a journalist, I would say the more neutral the language the better. Some people find *illegal immigrants* offensive. I think most newspapers use that. It used to be *illegal aliens* and I think that's mostly been dropped. *Unauthorized*—I think that would be great if the mainstream media adopted that [term] because it comes down to the political question, in my experience. I think that *alien* is something that's not used anymore.

Panelist Edward Schmutzacher-Matos: There have been huge debates in every newsroom across the country on this particular issue. The AP [Associated Press] style book uses *illegal immigrant*. The *New York Times* style book uses *illegal immigrant*. The *Wall Street Journal* doesn't have the term in its style book. It uses the [various] terms indiscriminately, but it normally starts with *illegal immigrant* in stories. The National Association of Hispanic Journalists has been trying to push very hard across the country to change it to *undocumented*. Now the Pew Hispanic Center and others have begun using the word *unauthorized*. That's the word that's getting pushed more and more.

Panelist Cristina M. Rodriguez: What I tell my students when I teach immigration law is to not be inhibited by their use of language. In that sort of a setting, talking someone down because they said *illegal immigrant* or even *illegal alien* restricts debate in the classroom. As a result, it sometimes creeps into the way I speak about it too. But I also grew up in Texas, where the use of *illegal aliens* is just the way that people talk about it. That's also happening. That's not to the point of the style guides that journalists should use, but in conversation it's hard to control your language without controlling your thought.

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Audience question: Dianne Solis mentioned the question of due process and calibrating our legal lenses as journalists to understand how these immigration raids are conducted. I'm not a legal affairs reporter. I have covered immigration raids. What are the parameters within which ICE agents are operating when they bang on your door and say "Police here" and then come into your house, open doors, and go through rooms? I'm interested in the perspectives of the legal scholars on advising us as journalists of where the lines are. I've run into resistance from editors who say "Well,

they're here illegally." How does due process apply to them and why is this a story?

Panelist Cristina M. Rodríguez: To address the last thing you said, when someone says they're here illegally, what's the problem, the question is determining whether or not the person is here illegally. The point of due process is to make sure there's not an erroneous deprivation of someone's liberty or property interests. Before you have made a factual determination according to procedures, you don't know the answer to that question. Procedures are put in place to make sure you're most likely to get the best answer. That's why the Supreme Court imposed due process on the military tribunals and status review tribunals in Guantanamo, because you don't know that they're enemy combatants until you have a viable procedure to make the determination. I think that's the way to think about that type of question, which people commonly ask.

Panelist Peter H. Schuck: It's not just to increase our confidence in the accuracy of decision making. It's also to restrain the government by forcing it to adhere to norms of fairness and dignity. Even if accuracy were not increased, these would be important values.

Panelist Cristina M. Rodríguez: A lot of the raids traditionally use administrative warrants. This is because immigration enforcement is a civil matter, not a criminal matter, and there are lower standards for obtaining those. [There is] an important issue in the current raids: the extent to which people can consent to allow ICE into the home, people who aren't actually targeted in the investigation. There are lots of anecdotal stories of children consenting to allow ICE in. There are questions about from whom can you genuinely get consent to enter into the home, because you need consent to enter into the home without a criminal warrant. However, there are lots of ways around that. In the criminal law, if someone who is in your home consents to let the police in, the fact that person doesn't live there is not a defense.

The Making of an Outlaw Generation

NINA BERNSTEIN

In the fall of 2004, my first year covering immigration for the *New York Times*, I met an eight-year-old girl named Virginia Feliz. Her last name means "happy" in Spanish, but she hated her name, she told me. She threw herself down on a couch in her family's apartment in the Bronx, beside her father, Carlos Feliz, a U.S. citizen who was born in the Dominican Republic. She declared: "I'm not happy, I'm sad. Because it's not fair that everybody else has their mom except me." In an article on the front page of the *Times*—one of the first, I believe, to highlight the breadth of this phenomenon—I wrote: "Virginia is part of the growing tribe of American children who have lost a parent to deportation."¹ Virginia's forty-seven-year-old mother, Berly Feliz, had gone to the federal immigration headquarters in Manhattan on a supposedly routine visit to renew her work authorization. But an old deportation order had resurfaced, and Mrs. Feliz, who had lived in the United States for a decade after migrating illegally from Honduras, was quickly handcuffed and placed on a plane, with no chance to say goodbye.

By all reports Virginia Feliz had been a happy child before her mother's expulsion. Two months later, doctors said Virginia had a major depressive disorder marked by hyperactivity, nightmares, bed-wetting, frequent crying, and fights at school. In a letter to the Department of Homeland Security, Dr. Victor Sierra, the director of the Child and Adolescent clinic where Virginia was treated, made no bones about the underlying problem: "Absent mother, secondary to deportation."